IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 20787 of 2002

Between:

Tadi Krishna Prasad S/o.Jaya Prasad
Koneru Laxmaiah college of Engineering Vijayawada.

..... PETITIONER

AND

1 Nagarjuna University Rep.by its Registrar, Guntur.
2 Special Officer Incharge, Special Section (Exams),
Nagarjuna University, Guntur.
3 Principal, Koneru Laxmaiah Engineering College, Vijayawada.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records pertaining to the order dt.6-9-2002 in proceedings No.NU/SS(2)/MEC/ PG/UG/ MARCH/APRIL 2002 of the 2nd respondent and to quash the same so far as it relates to the petitioner and to consequently direct the respondents to declare the result of 3rd year 2nd semester examinations of the petitioner and to allow him to write all subsequent examinations without any disqualification and to declare such result without any sigma or disqualification what so ever.

Counsel for the Petitioner: MR.K.SARVA BHOUMA RAO

Counsel for the Respondents 1 and 2: MR.T.S.HARNATH, Standing Counsel for Nagarjuna University

Counsel for Respondent No.3: None appeared

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20787 OF 2002

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ORDER:

The petitioner is a student of third year Engineering in Koneru Laxmaiah Engineering College. Aggrieved by the proceedings of the Vice-Chancellor of the first respondent University dated 06.09.2002, whereby and whereunder, the petitioner was disqualified to appear for any University examinations for a period of two years with effect from March/April, 2002, the petitioner filed the present writ petition seeking a writ of Certiorari to quash the impugned order.

On 24.07.2002, when the petitioner was appearing for second semester of third year examinations in Very Large Scale Integrated Circuits (VLSIC), the Invigilator allegedly asked the petitioner to stand up and stop writing examinations. It was alleged that the Invigilator found a chit containing the same subject material and that the petitioner brought the material with an intention to resort to malpractice. The petitioner denied the allegation and requested the Invigilators to show the chit found near his seat, in vain. The petitioner also alleges that the Invigilators coerced him to confess to the malpractice and accordingly petitioner gave a letter to that effect. The petitioner states that the impugned order was not preceded by any enquiry and no notice was issued to the petitioner before debarring him for a period of two years.

The first respondent filed the counter affidavit and also produced the records. While denying the various allegations made in the affidavit accompanying the writ petition, it is stated that on 24.07.2002, when the examinations were on, Invigilators found the petitioner in possession of a chit with written matter and also found him copying from the chit. The three Invigilators sent a report to the Chief Superintendent enclosing the said chit. The petitioner gave a letter to the third respondent admitting malpractice and requested for pardon. The matter was referred to the University by the Chief Superintendent. The counter further states that a show cause notice dated 08.08.2002 was issued to the petitioner calling upon him to show cause as to why

action should not be taken for the malpractice as per the Rules. The petitioner submitted explanation on 16.08.2002 denying the allegations of malpractice. Thereafter the matter was placed before the Malpractice Committee, which examined the entire material and recommended for debarring the petitioner for a period of two years, accordingly the impugned order was passed.

The learned counsel for the petitioner Sri K.Sarva Bhouma Rao contends that the impugned order must be visited with invalidation as the same is not preceded by any enquiry and the same is violative of principles of natural justice as no notice is issued. He also submits that the respondents did not even compare the answer script of the petitioner with the material found on the chit allegedly near the seat of the petitioner and the impugned order was passed without application of mind. **Per contra,** the learned Standing Counsel for Nagarjuna University relied on Section 41 of A.P.Universities Act, 1991, in support of the submission that the petitioner has an effective alternative remedy of making an appeal to the Executive Council of the University and therefore the writ petition is not maintainable. Relying on the record of the University, he submits that the impugned order was preceded by any enquiry by the Malpractice Committee and the notice to the petitioner as to why action should not be taken, to which the petitioner submitted explanation.

The submissions of the learned counsel for the petitioner in so far as the truth or otherwise of the allegation of malpractice on the part of the petitioner is essentially a question of fact. Therefore, it would be in the interest of the petitioner, if he is permitted to file appeal before the Executive Council under Section 41 of the Universities Act. Two weeks time is granted to the petitioner to file appeal before the Executive Council, and as and when such appeal is filed, the Executive Council may consider the same in their next meeting and pass appropriate orders.

The writ petition, with the above observations and directions, is disposed of.

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(V.V.S.RAO,J)

15.09.2004.

pln

To

1. The Registrar, Nagarjuna University, Guntur.
2. Special Officer Incharge, Special Section (Exams), Nagarjuna University, Guntur.
3. The Principal, Koneru Laxmaiah Engineering College, Vijayawada.
4. 2 CD copies.